3793.

SUPREME COURT OF THE UNITED STATES.

No. 81.

JOSEPH D. BEERS, USE OF WILLIAM A. PLATENIUS, AS ADM'R OF JAMES HOLFORD, DEC'D, PL'FF IN ERROR,

vs.

THE STATE OF ARKANSAS.

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GIDEON, Print.

STATE OF ARKANSAS,
In the Supreme Court, sct.

Be it remembered, that at a supreme court of the State of Arkansas, begun and held at the court-house on the first Monday in January, A. D. 1856, before the Hon. Elbert H. English, chief justice, and Hon. Christopher C. Scott, judge of said court, on the 18th day of April, 1856, were the following proceedings in the case of

JOSEPH D. BEERS, use of William A. Platenius, as adm'r, &c., of James Holford, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant.
} Writ of error to Pulaski circuit court.

Writ of Error.

Be it remembered, that heretofore, to wit, on the 14th day of September, A. D. 1855, the said plantiff sued out of the office of the clerk of this court a writ of error in said cause, which is in the following words, to wit:

The State of Arkansas to the clerk of Pulaski county, in said State, greeting:

Because, in the record and proceedings, and also in the giving of judgment in a suit which was in the circuit court, before the honorable John J. Clendenin, judge thereof, between Joseph D. Beers, who sues for the use and benefit of William A. Platenius, as administrator of all and singular the goods and chattels, rights and credits, of James Holford, is plaintiff, and the State of Arkansas is defendant, of a plea of covenant, manifest error has intervened, to the damage of the said William A. Platenius as such administrator, as he alleges, you are therefore hereby commanded, that if final judgment be therein given, you send to the supreme court, under your official seal, the record and proceedings aforesaid, together with this writ, on the first day of the next term of said supreme court of said State, which will be held on the first Monday of January, A. D. 1856, at the court-house in the city of Little Rock, in said State, that the record and proceedings aforesaid being inspected by said supreme court, it may cause to be done therein what, according to law, ought to be done; and that you return this writ under your official seal.

Witness Luke E. Barber, clerk of said supreme court, who has hereunto set his hand as such clerk, and affixed the seal of said supreme court, at his office in the city of Little Rock, this [L. S.] 14th day of September, 1855, and of the independence of the United States the 80th year.

L. E. BARBER, *Clerk.*
By ISAAC T. CATES,
Deputy Clerk.

And afterwards, to wit, on the said 14th day of September, A. D. 1855, the said plaintiff sued out of the office of said clerk of the supreme court a writ of scire facias to hear errors, in the following words, to wit:

Writ of Scire Facias.

The State of Arkansas to the sheriff of Pulaski county, in said State, greeting:

Because, in the record and proceedings, and in the giving of judgment in a suit which was in the circuit court of said county of Pulaski, before the judge thereof, between Joseph D. Beers, who sued for the use and benefit of William A. Platenius, as administrator of all and singular the goods and chattels, rights and credits, of James Holford, deceased, is plaintiff, and the State of Arkansas is defendant, of a plea of covenant, as it is alleged by the said William A. Platenius as such administrator, manifest error has intervened, to his great damage, and it being proper that such error, if any, should be corrected, and speedy justice done, you are therefore commanded to summon the said State of Arkansas, that she appear before the said supreme court of the State of Arkansas, at the court-house in the city of Little Rock, in said State, on the first day of the next term of said supreme court, which will be held on the first Monday of January, A. D. 1856, to respond to a writ of error issued in said case, and show cause, if any she have, why said judgment should not be reversed, and altogether held for naught; and that you made due return of this writ.

Witness Luke E. Barber, clerk of said supreme court, who has hereunto set his hand as such clerk, and affixed the seal of said supreme court, at his office in the city of Little Rock, this 14th day of September, 1855, and of the independence of the United States the 80th year.

[L. S.]

LUKE E. BARBER, *Clerk.*
By ISAAC T. CATES,
Deputy Clerk.

Return of Writ of Error.

And afterwards, to wit, on the 12th day of December, A. D. 1855, the clerk of said circuit court, to whom said writ of error was directed, made return thereof to our supreme court, in the following words:

THE STATE OF ARKANSAS,
County of Pulaski, ss.

I, Gordon N. Peay, clerk of the circuit court of said county, do hereby certify, that in obedience to the mandate of the within writ, I have made a true and complete transcript of the record and proceedings had in said court, in the case within mentioned, (except the several counts in the declaration, omitted by the direction and consent of par-

ties,) and the same is herewith returned, officially certified to the supreme court of the State of Arkansas.

In testimony whereof, I hereunto set my hand and affix the [L. S.] seal of my office, this 29th day of September, A. D. 1855.

GORDON N. PEAY, *Clerk.*

Transcript of Ct. Ct.

And attached to and filed with said writ of error and return was the transcript of the record of said circuit court, in the following words:

Pleas before the honorable John J. Clendenin, judge of the Pulaski circuit court, on the 9th day of July, A. D. 1855, in the following entitled case, to wit:

JOSEPH D. BEERS, who sues for the use and benefit of William A. Platenius, as administrator of James Holford, dec'd, Plaintiff, vs. THE STATE OF ARKANSAS, Defendant. } In covenant.

Declaration.

In the Pulaski Circuit Court, to December Term, A. D. 1856.

Joseph D. Beers, who sues for the use and benefit of William A. Platenius, as administrator ad colligendum of all and singular the goods and chattels, rights and credits, which were of James Holford, deceased, who died testate, by attorney, complains of the State of Arkanses, of a plea of covenant broken.

For that whereas, heretofore, to wit, on the first day of January, A. D. 1838, at Little Rock, in the county of Pulaski, in the State of Arkansas, under and by virtue of the act of the general assembly of the State of Arkansas, entitled "An act to incorporate the Bank of the State of Arkansas," approved the second day of November, A. D. 1836, and particularly under and by virtue of the 17th section of said act, and in order to enable the president and directors of said bank to obtain by sale of bonds of the State the capital wherewith to put said bank in operation, the said State of Arkansas made and executed, and to said bank of the State of Arkansas delivered, her certain bond and writing obligatory of that date, sealed with the great seal of said State, then thereto caused to be affixed by his excellency Sam. C. Roane, who was then governor of said State, and by him as such governor signed, and countersigned William E. Woodruff, who was then treasurer of said State, as such treasurer; and which, with the endorsement thereon, hereinafter mentioned, is now here shown to the court, and the caption whereof is as follows: "United States of America, State of Arkansas—$1,000. No. 511—$1,000—£225—£225. Bank of the State of Arkansas.—Six per cent. stock. Under an act of the general assembly of the State of Arkansas, entitled 'An act supple-

mental to an act to establish the State Bank of Arkansas,' approved December 18, 1837—One thousand dollars." And in the margin, "Arkansas State Bank."—"One thousand dollars." To the payment of which bond and writing obligatory, by the said act of assembly, the faith and credit of the said State were pledged, and thereby the said State of Arkansas then there acknowledged herself to be indebted to the president and directors of the Bank of the State of Arkansas in the sum of one thousand dollars, and thereby covenanted and agreed with the said president and directors of said Bank of the State of Arkansas, that she would pay said sum of one thousand dollars, to the order of said president and directors of said Bank, on the first day of January, in the year of our Lord one thousand eight hundred and sixty-eight; and also, that she would pay half-yearly, on the first day of July and on the first day of January in each year, interest on said sum of one thousand dollars at the rate of six per centum per annum, at the place to be named in the endorsement upon said last mentioned writing, until the payment of said principal sum. Which said writing obligatory being in law payable to said Bank of the State of Arkansas, and said covenant and agreement therein contained made with said bank, by its said description of "The President and Directors of the Bank of the State of Arkansas," the said bank afterwards, to wit, on the day of the date of said writing obligatory, by its endorsement thereon, then made in the first person by William Field, its president, and John H. Crease, its cashier, for value received, assigned, endorsed and transferred the said writing obligatory, under and by virtue of the powers by said 17th section of said first mentioned act of assembly, in the said president and cashier vested, to the said plaintiff, described as "President of the North American Trust and Banking Company," or bearer; and therein they, by direction of Chester Ashley and Charles P. Bertrand, commissioners appointed by the governor aforesaid, under and by virtue of the second section of the supplemental act aforesaid, did fix the place at which said principal and interest should be paid, to be the "banking house of Messrs. Frederick Huth & Co., in the city of London," (which was and is in the kingdom of Great Britain, beyond seas,) and then there delivered the said writing obligatory, so endorsed, to the said plaintiff, the purchaser of the same, who is still the assignee of the same; and the said person for whose use this suit is brought is the bearer thereof, being a purchaser thereof and holder, by delivery for value without endorsement. And the said plaintiff in fact saith, that the said State of Arkansas hath not paid, at the said banking house of the said Frederick Huth & Co., in the city of London, or elsewhere, the several instalments of interest at the rate of six per centum per annum, which have become due and payable since the making of said writing obligatory, upon said sum of one thousand dollars, or two hundred and twenty-five pounds sterling, on the first day of January, A. D. 1842, and the first day of July, 1842, and upon the first day of January and the first day of July in each and every year thereafter, up to and including the present year 1854, to wit, the sum of thirty dollars, or six pounds fifteen shillings sterling, on each of those days,

to the said plaintiff, or to the said person for whose use this suit is brought, or to any other holder of said bond, either upon these days or at any other time whatsoever, according to the form and effect of said writing obligatory and covenants, and of said endorsement thereof, or either of said sums, or any part of either, though often requested so to do; but the said State the said last mentioned several sums of thirty dollars, or six pounds fifteen shillings sterling each, unto the said plaintiff, or to the said person for whose use this suit is brought, or to any other holder of said bond, at the end of the said respective terms, or ever as yet, in whole or in part to pay, hath altogether omitted, neglected and refused. Nor hath she ever made any provision for the payment of any of said instalments of interest, or ever had or placed any money at said place of payment, to pay or meet any of said instalments; nor hath said bank or any other person done it for her; nor hath she or said bank, or any other person for either, ever been there ready to pay any of the same, so that it hath been always useless there to demand payment of any of said instalments of interest, against the form and effect of said covenant and writing obligatory, and of the said endorsement thereof; and so the said plaintiff saith that the said State of Arkansas, although often requested, hath not kept the said covenant so by her made as aforesaid, but hath broken the same, and to keep the same with the said plaintiff hath hitherto wholly refused, and still doth refuse; nor hath paid the difference of exchange, or any part thereof, on any one or more of said instalments of interest between Little Rock and the city of London aforesaid, in favor of London, as it hath since the making of said writing obligatory hitherto ever been.

[NOTE.—By agreement of attorneys the other counts in the declaration in this case, being 254 in number, are omitted in this transcript.]

By means of which said several breaches of said several covenants in the said in the several counts of this declaration mentioned, the said plaintiff saith that he hath been injured, and hath sustained damage to the sum of five hundred thousand dollars, and therefore for the use aforesaid he sues.

PIKE & CUMMINS,
Atto's for Plaintiff.

Filed and summons issued this 21st day of November, A. D. 1854.
GORDON N. PEAY, *Clerk.*

Summons.

THE STATE OF ARKANSAS,
County of Pulaski, ss.

State of Arkansas to the sheriff of Pulaski county, greeting:

You are hereby commanded to summon the State of Arkansas, if she be found within your bailiwick, to appear before the judge of our circuit court of Pulaski county, at the court-house in the county aforesaid, on the first day of our next June term, at a court to be holden on the first Monday of June (1855) next, then and there to answer Joseph D. Beers, who sues for the use and benefit of William A. Platenius,

as administrator of James Holford, deceased, to a plea of covenant broken, to the damage of said plaintiff as such administrator of five hundred thousand dollars, and that you make due return of this writ to our said court.

In testimony whereof I have hereunto set my hand as clerk of said court, and affixed the seal of office, this 21st day of November, A. D. 1854.

[SEAL.]

GORDON N. PEAY, *Clerk.*

Sheriff's Return.

Executed the within writ in the county of Pulaski, Arkansas, on the 21st day of November, A. D. 1854, at 9 o'clock in the forenoon, by delivering a true and perfect copy hereof to William R. Miller, Esq., auditor of public accounts of the State of Arkansas.

Given under my hand this day and date above written.

JOHN C. PEAY,
Sheriff Pulaski Co., Ark's.

Returned and filed 21st November, 1855.

G. N. PEAY, *Clerk.*

Proceedings had 25th June, A. D. 1855.

Motion to file Bonds.

This day comes the defendant by her attorney, S. H. Hempstead, Esq., and files her motion to require the plaintiff to file here in open court the bonds sued on in this cause.

Motion.

Pulaski Circuit Court—June Term, 1855.

JOSEPH D. BEERS, for use of
William A. Platinius,
vs.
THE STATE OF ARKANSAS.

The defendant, by attorney, comes and moves the court to require the plaintiff to immediately file the original bonds referred to or mentioned in the declaration, according to the act of assembly approved 7th December, 1854, and, if the same are not filed, that this suit be dismissed.

P. JORDAN, *Att'y Gen'l.*
S. H. HEMPSTEAD,
Special Attorney for the State.

Filed 25th June, 1855.

G. N. PEAY, *C'lk.*

Proceedings had 9th July, 1855.

Order sustaining Motion.

Joseph D. Beers, who sues for the use and benefit of William A. Platenius, as adm'r of James Holford, dec'd, Plaintiff, *vs.* The State of Arkansas, Defendant. In covenant.

This day comes said parties, by their respective attorneys, and the motion for a rule on the plaintiff to file here in court the bonds sued on in this case comes on to be heard; and is argued by counsel; and the court being now sufficiently advised thereon, doth sustain the same, and doth order and rule that said plaintiff do forthwith produce and file here in court the bonds mentioned and described in the declaration; and thereupon the plaintiff declines, and refuses to file said bonds.

Final Judgment.

It is therefore considered by the court that this suit be dismissed, and that the said defendant do go hence hereof without day, and recover against the said William A. Platenius, as administrator of the estate of James Holford, deceased, all of the costs by her about her defence in this behalf expended.

To which judgment of the court the plaintiff excepts, and on motion it is ordered that he have leave to present and file his bill of exceptions, in respect thereof, at a future day of this term.

Proceedings had 18*th July*, 1855.

This day comes said plaintiff, by attorney, and presents to the court here his bill of exceptions, which is now signed, sealed, filed, and ordered to form a part of the record of this case.

Bill of Exceptions.

ARKANSAS, *sct.*

In Pulaski Circuit Court—June Term, 1855.

Joseph D. Beers, for the use of William A. Platenius, as administrator of James Holford, *vs.* The State of Arkansas. In covenant.

Be it remembered, that on the 9th day of July, A. D. 1855, at this term, the motion now here of file by the State to compel said plaintiff forthwith to file herein, under the act of the legislature, the bonds sued on in this cause, came up to be heard, and said plaintiff in open court declines to file said bonds under said act; whereupon the court forthwith, without requiring the State to plead or defend herein, sustained said motion and dismissed said cause. To which opinion and proceeding of the court in so sustaining said motion and dismissing said cause, upon the facts appearing upon record herein and this bill of exceptions, which were the only facts or showing made or appearing herein, plaintiff excepted at the time, and had time given him until now to prepare and tender his bill of exceptions in respect thereof, which here now he presents, and prays the same may be signed, sealed, and made part of the record herein; and the same is so done at this term this 18th day of July, A. D. 1855.

Witness my hand and seal as judge.

JNO. J. CLENDENIN, [SEAL.]
Judge Pul. Ct. Ct.

Filed 18th July, 1855.

GORDON N. PEAY, *Clerk.*

THE STATE OF ARKANSAS,
County of Pulaski, ss.

I, Gordon N. Peay, clerk of the circuit court of said county, do hereby certify that the annexed and foregoing ten pages contain a true and complete transcript of the record and proceedings had in said court in the case therein mentioned, (except the counts in the declaration omitted by consent of parties,) as the same remains in my office.

In testimony whereof, I have hereunto set my hand as such clerk, [L. S.] and affixed the seal of my office, this 10th day of November, A. D. 1855.

GORDON N. PEAY, *Clerk*.

And afterwards, to wit, on the 5th day of January, 1856, the said sheriff, to whom said writ of scire facias was issued, made return thereof, as follows: Executed the within writ in the county of Pulaski, Ark., on the 18th day of September, A. D. 1855, by then and there delivering a true and perfect copy hereof to Alexander S. Huey, auditor of public accounts, State of Arkansas.

JNO. C. PEAY, *Sheriff*.
By J. T. JAMES, *Deputy Sheriff*.

Fee $1 00.

And afterwards, to wit, at a supreme court of the State of Arkansas, begun and held on said first Monday in January as aforesaid, and on the 8th day of January, were the following proceedings, to wit:

Filing Assignment.

At this day comes said plaintiff, by his attorney, and on motion it is ordered that his assignment of errors be filed; and thereupon the same is filed.

Assignment of Errors.

Which said assignment of errors is in the following words, to wit: And the said plaintiff in error comes and says, that in the record and proceedings, and also in the giving of judgment in this case, there is manifest error in this, to wit: that by the record and proceedings aforesaid, it appears that the said circuit court, of the county of Pulaski, dismissed the said suit of the said plaintiff in error, upon the motion of said defendant in error, because the said plaintiff in error refused to file in the office of the clerk of said court the bonds mentioned in said declaration, there to remain, and not to be withdrawn until the final determination of said suit, and the final payment of said bonds, and all interest thereon, which judgment of dismissal was so rendered by said court upon and in obedience to the order of the legislature of said State, contained in the act of the general assembly of said State, approved the 7th day of December, A. D. 1854, entitled "An act further to regulate the manner of bringing suits against the State," and which act is null and void, as being in conflict with and in violation of the Constitution of the United States, it being a law that impairs the obli-

gation of the contracts and each of the contracts between the said State and the said plaintiff in error, evidenced by and contained in each of said bonds, and the endorsement thereof, and also void as an usurpation by the legislature of judicial power. And there is also manifest error in this, that by the record and proceedings aforesaid, it appears that the judgment aforesaid, in form aforesaid given, was given and rendered in favor of said defendant in error against said plaintiff in error, whereas by the law of the land the same should have been rendered in favor of said plaintiff in error against said defendant in error. Wherefore, and for other errors in the record and proceedings aforesaid, apparent, the said plaintiff in error prays that the judgment aforesaid, in form aforesaid given, may be reversed, annulled, and wholly held for naught, and that he may be restored to all things which he hath lost by occasion thereof.

ALBERT PIKE,
Counsel for Pl'ff in Error.

And afterwards, to wit, on the 9th day of January, of said term of our supreme court, were the following proceedings, to wit:

Joinder in Error.

At this day comes said defendant, by her attorney, and on motion it is ordered that her joinder in error be filed; and thereupon the same is filed.

Submission.

And at the same time comes said plaintiff, by his attorney, and this cause is submitted upon the briefs filed, and by the court taken under advisement.

Said joinder in error is as follows: The defendant, by attorney, comes and says, that in the record and proceedings, and in the judgment aforesaid, there are no errors as above alleged, and the State prays that the judgment may, in all things, be affirmed with costs.

S. H. HEMPSTEAD.

And afterwards, to wit, on the said 18th day of April, and at the said term of our supreme court, were the following proceedings, to wit:

Final Judgment.

This cause came on to be heard upon the transcript of the record of the circuit court of Pulaski county, and was argued by counsel; on consideration whereof, it is the opinion of the court that there is no error in the proceedings and judgment of said circuit court in this cause. It is therefore considered by the court that the judgment of said circuit court in this cause rendered be, and the same is hereby, in all things, affirmed with costs. It is further considered that said defendant recover of said plaintiff all his costs in this court in this cause expended, and have execution thereof.

Depositing Writ of Error for Supreme Court U. S.

(NOTE.)—And afterwards, to wit, on the 10th day of November, 1856, the said plaintiff presented to the clerk of said supreme court

a writ of error duly certified by the clerk of the circuit court of the United States for the eastern district of Arkansas, commanding him to certify the transcript of the record in this cause to the Supreme Court of the United States of America, and deposited in his office a copy of said writ for the defendant in said cause.

In testimony that the foregoing is a true copy of the record of said supreme court in said cause, (except the opinion of the court and briefs of counsel,) I have hereto set my hand and affixed [SEAL.] the seal of said court at my office, in the city of Little Rock, Arkansas, this 29th day of November, A. D. 1856.

L. E. BARBER, *Clerk*.

Writ of Error—No. 219.

UNITED STATES OF AMERICA, *ss.*

The President of the United States of America to the judges of the Supreme Court of the State of Arkanas, greeting:

Because in the record and proceedings, and also in the rendition of a judgment in a plea which is in the said Supreme Court, before you, upon error in an action of covenant, between Joseph D. Beers, who sued for the use and benefit of William A. Platenius, as administrator ad colligendum of the goods and chattels, rights and credits, which were of James Holford, deceased, plaintiff, and the State of Arkanas, defendant, a manifest error hath happened, and a law impairing the obligation of contracts hath been maintained as valid, to the great damage of the said Joseph D. Beers, for the use aforesaid, as by this complaint appears; and it being fit that the error, if any there hath been, should be duly corrected and full and speedy justice done to the parties aforesaid in this behalf, you are hereby commanded, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington on the first Monday of December next, in the said Supreme Court to be then and there held, that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that error what of right, and according to the law and custom of the United States, ought to be done.

Witness the Hon. Roger B. Taney, Chief Justice of the said Supreme Court of the United States, this tenth day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of the United States independence the eighty-first year.

WM. FIELD, *C'lk.*

Pr. WM. H. CAUSIN, *D. C.*

STATE OF ARKANSAS,

In the Supreme Court, sct.

I, Luke E. Barber, clerk of the supreme court of the State of Arkansas, hereby certify to the Supreme Court of the United States, that, in obedience to the mandate of this writ, I have made out and certified a

true copy of the record and proceedings in said cause as it is in our supreme court, and send the same, together with this writ, as therein it is commanded.

In testimony whereof, I have hereto set my hand and affixed the [L. S.] seal of said court at my office, in the city of Little Rock, this 29th day of November, A. D. 1856.

L. E. BARBER, *Clerk.*

Citation—No. 219.

UNITED STATES OF AMERICA, *ss.*

To the State of Arkansas, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the first Monday of December next, pursuant to a writ of error filed in the office of the clerk of the supreme court of the State of Arkansas, wherein Joseph D. Beers, who sues for the use and benefit of William A. Platenius, as administrator ad colligendum of the goods and chattels, rights and credits which were of James Holford, deceased, is plaintiff, and the said State of Arkansas is defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, and speedy justice done to the parties in that behalf.

Witness the Hon. Elbert H. English, chief justice of the supreme court of the State of Arkansas, this 10th day of November, in the year of our Lord one thousand eight hundred and fifty-six, and of the independence of the United States the 81st year.

E. H. ENGLISH.

STATE OF ARKANSAS, *Pulaski County.*

I hereby certify that I executed the within writ of citation in the aforesaid county and State, on the 12th day of November, A. D. 1856, by delivering a true and complete copy hereof to *to* each of the following named persons, to wit: Chas. N. Conway, governor of the State of Arkansas, and Alex. S. Huey, auditor, and Thomas Johnson, attorney general.

Given under my hand this 13th day of November, A. D. 1856.

Marshal's fee $6 40. JOHN QUINDLEY,

U. S. Marshal of the Eastern District of Arkansas.

By H. BRAGAN, *D. M.*

Fee Bond—No. 219.

Supreme Court of the United States.

JOSEPH D. BEERS, who sues for the use and benefit of William A. Platenius, as administrator ad colligendum of the goods and chattels, rights and credits, which were of James Holford, deceased, Plaintiff, } In error.

vs.

THE STATE OF ARKANSAS, Defendant.

Know all men by these presents, that we, Albert Pike and John

Wassell, are held and firmly bound unto the State of Arkansas in the sum of five hundred dollars, to the payment whereof well and truly to be made to said State we bind ourselves, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals, and dated this tenth day of November, A. D. 1856.

Whereas the above named Joseph D. Beers, for the use aforesaid, hath prosecuted a writ of error to the Supreme Court of the United States, to reverse the judgment rendered in the above entitled suit by the supreme court of the State of Arkansas: Now, therefore, the condition of this obligation is such, that if the above named Joseph D. Beers shall, for the use aforesaid, or said William A. Platenius shall, as such administrator, in his name, prosecute said writ of error to effect, and answer all costs if he shall fail to make good his plea, then this obligation is to be void, else shall remain in full force.

ALBERT PIKE, [L. S.]
JOHN WASSELL, [L. S.]

Sealed and delivered in our presence—
W. W. ADAMS,
FRED S. GARRITT.

The within bond is approved by me as good in form, the sum therein named as sufficient, and the obligors as perfectly good and responsible for the same, this 10th day of November, A. D. 1856.

E. H. ENGLISH,
Ch. Justice Sup. Court.

Filed 29 Dec., 1856.

Assignment of Errors—No. 219.

Supreme Court of the United States.

JOSEPH D. BEERS, who sues for the use and benefit of William A. Platenius, administrator ad colligendum of the goods, &c., of James Holford, deceased, Plaintiff,
vs.
THE STATE OF ARKANSAS, Defendant. } In error.

And the said plaintiff in error comes and says, that in the record and proceedings, and also in the giving of judgment in this case, in the said supreme court of Arkansas, there is manifest error in this, to wit:

That by the record and proceedings aforesaid it appears that the said supreme court of the State of Arkansas did affirm the judgment of the circuit court of the county of Pulaski, which did dismiss the said suit in covenant of the said plaintiff in error, because the said plaintiff in error refused to file in the office of the clerk of said court the bonds mentioned in said declaration, there to remain and not to be withdrawn until the final determination of said suit, and the final payment of said

bonds and all interest thereon; which judgment of dismissal was so rendered by said circuit court, upon and in obedience to the order and mandate of the defendant in error, contained in the act of the general assembly thereof, approved the 7th day of December, A. D. 1854, entitled "An act further to regulate the manner of bringing suits against the State;" and which act is and was null and void, as being in conflict with and in violation of the Constitution of the United States; it being a law that impairs the obligation of the contracts and each of the contracts between the said State and the said plaintiff in error, evidenced by and contained in each of said bonds, and the endorsement of each, in said declaration mentioned; so that in this there is such error as should be corrected by the Supreme Court of the United States.

And there is also manifest error in this, that by the record and proceedings aforesaid it appears that the judgment of said supreme court, in form aforesaid given, was given and rendered in favor of said defendant in error against said plaintiff in error; whereas by the law of the land and the Constitution of the United States the same should have been rendered in favor of the plaintiff in error against the defendant in error.

Wherefore, and for other errors in the record and proceedings aforesaid apparent, the said plaintiff in error prays that the judgment aforesaid in form aforesaid given may be reversed, annulled, and wholly held for naught; and that he may be restored to all things which he hath lost by occasion thereof.

ALBERT PIKE,
Counsel for Pl. in Error.

Filed 29th December, 1856.